IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No. 4580 of 2000

For Approval and Signature:

Hon'ble MISS JUSTICE R.M. DOSHIT

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

HASMUKHBHAI KASTURCHAND SHAH

Versus

BHARATBHAI BABABHAI PATEL

Appearance:

MR RC JANI for Petitioners

HL PATEL ADVOCATES for Respondent No. 1

MS SD TALATI AGP for Respondent No. 2, 3

CORAM : MISS JUSTICE R.M.DOSHIT

Date of decision: 19/01/2001

ORAL JUDGEMENT

Heard the learned advocates.

Rule returnable today. Learned advocate Mr. V.H Patel appears for and waives service of rule on behalf of

respondent no. 1. Learned AGP Ms. S.D Talati appears for and waives service on behalf of respondents nos. 2 & 3. With the consent of the learned advocates, the matter is heard today and is finally disposed of.

3. The petitioners claim the ownership of land, Survey no. 392/2/1, situated at village Thaltej, Taluka Daskroi, District Ahmedabad and challenge the order dated 22nd April, 1997 made by the Mamlatdar, Daskroi directing that the mutation be made in favour of the respondent no. 1 herein, as a person in possession of the land and the judgment and order dated 24th September, 1999 passed by the State Government in Revision Application No. 128 of 1998. I am informed that the respondent no. 1 has also taken out proceedings under section 70 (b) of the Bombay Tenancy & Agricultural Lands Act, 1948 seeking declaration that he [i.e., the respondent no. 1] is a tenant on the land in question. It does appear that the name of the respondent no. 1 is ordered to be entered into the revenue records without there being a decision in the tenancy case.

4. In above view of the matter, the impugned orders of the revenue authorities below ie., the order of the State Government dated 24th September, 1999 [Annexure-E to the petition], the order dated 15th October, 1998 of the District Collector, Ahmedabad [Annexure-D to the petition], the order dated 13th November, 1997 of the Deputy Collector, Viramgam Prant, Ahmedabad [Annexure-C to the petition] and the order dated 22nd April, 1997 of the Mamlatdar, Daskroi [Annexure-B to the petition] are quashed and set-aside. The mutation entry entered pursuant to the order dated 22nd April, 1997 made by the Mamlatdar, Daskroi shall be deemed to be provisional, shall not be acted upon and shall be subject to the decision in the pending tenancy proceeding. Rule is made absolute in the above terms. The parties shall bear their own costs.

[Miss R.M Doshit, J.]

Prakash*